

prohibited ground, prohibits or limits an individual's eligibility to participate in any WIOA Title I—financially assisted program or activity to which this part applies.

(c) *Effect of possible future exclusion from employment opportunities.* A recipient must not exclude any individual from, or restrict any individual's participation in, any program or activity based on the recipient's belief or concern that the individual will encounter limited future employment opportunities because of his or her race, color, religion, sex, national origin, age, disability, political affiliation or belief, or citizenship.

Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients

ASSURANCES

§ 38.20 What is a grant applicant's obligation to provide a written assurance?

(a)(1) Each application for financial assistance under Title I of WIOA, as defined in § 38.4, must include the following assurance:

As a condition to the award of financial assistance from the Department of Labor under Title I of WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I—financially assisted program or activity;

Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin;

Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I—financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I—financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

(2) The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title I of the WIOA is made available, whether or not it is physically incorporated in such document and whether or not there is a written agreement between the Department and the recipient, between the Department and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.

(b) *Continuing State programs.* Each Strategic Five-Year State Plan submitted by a State to carry out a continuing WIOA Title I—financially assisted program or activity must provide a statement that the WIOA Title I—financially assisted program or activity is (or, in the case of a new WIOA Title I—financially assisted program or activity, will be) conducted in compliance with the nondiscrimination and equal opportunity provisions of WIOA and this part, as a condition to the approval of the Five-Year Plan and the extension of any WIOA Title I financial assistance under the Plan. The State also must certify that it has developed and maintains a Methods of Administration under § 38.54.

§ 38.21 How long will the recipient's obligation under the assurance last, and how broad is the obligation?

(a) Where the WIOA Title I financial assistance is intended to provide, or is in the form of, either personal property, real property, structures on real property, or interest in any such property or structures, the assurance will obligate the recipient, or (in the case

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of a subsequent transfer) the transferee, for the longer of:

(1) The period during which the property is used either:

(i) For a purpose for which WIOA Title I financial assistance is extended; or

(ii) For another purpose involving the provision of similar services or benefits; or

(2) The period during which either:

(i) The recipient retains ownership or possession of the property; or

(ii) The transferee retains ownership or possession of the property without compensating the Departmental grantmaking agency for the fair market value of that ownership or possession.

(b) In all other cases, the assurance will obligate the recipient for the period during which WIOA Title I financial assistance is extended.

§ 38.22 How must covenants be used in connection with this part?

(a) Where WIOA Title I financial assistance is provided in the form of a transfer of real property, structures, or improvements on real property or structures, or interests in real property or structures, the instrument effecting or recording the transfer must contain a covenant assuring nondiscrimination and equal opportunity for the period described in § 38.21.

(b) Where no Federal transfer of real property or interest therein from the Federal Government is involved, but real property or an interest therein is acquired or improved under a program of WIOA Title I financial assistance, the recipient must include the covenant described in paragraph (a) of this section in the instrument effecting or recording any subsequent transfer of such property.

(c) When the property is obtained from the Federal Government, the covenant described in paragraph (a) of this section also may include a condition coupled with a right of reverter to the Department in the event of a breach of the covenant.

29 CFR Subtitle A (7–1–16 Edition)

EQUAL OPPORTUNITY OFFICERS

§ 38.23 Who must designate an Equal Opportunity Officer?

Every recipient must designate an Equal Opportunity Officer (“EO Officer”), except small recipients and service providers, as defined in § 38.4. The responsibilities of small recipients and service providers are described in §§ 38.27 and 38.28.

§ 38.24 Who is eligible to serve as an Equal Opportunity Officer?

A senior-level employee of the recipient should be appointed as the recipient’s Equal Opportunity Officer. Depending upon the size of the recipient, the size of the recipient’s WIOA Title I—financially assisted programs or activities, and the number of applicants, registrants, and participants served by the recipient, the EO Officer may, or may not, be assigned other duties. However, he or she must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.

§ 38.25 What are the responsibilities of an Equal Opportunity Officer?

An Equal Opportunity Officer is responsible for coordinating a recipient’s obligations under this part. Those responsibilities include, but are not limited to:

(a) Serving as the recipient’s liaison with CRC;

(b) Monitoring and investigating the recipient’s activities, and the activities of the entities that receive WIOA Title I funds from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I and this part;

(c) Reviewing the recipient’s written policies to make sure that those policies are nondiscriminatory;

(d) Developing and publishing the recipient’s procedures for processing discrimination complaints under §§ 38.76 through 38.79, and making sure that those procedures are followed;